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REMARKS

In view of the following discussion, the Applicants submit that none of the claims now pending in the application are anticipated under the provisions 35 U.S.C. § 102. Thus, the Applicants believe that all of these claims are now in allowable form.

I. REJECTION OF CLAIMS 1-8 AND 16-27 UNDER 35 U.S.C. § 102

A. *Norrgard, et al.*

The Examiner rejected claims 1-8 and 16-27 as being anticipated by US Patent Publication 2005/0105475, published on May 19, 2005, hereinafter referred to as "Norrgard." The Applicants respectfully traverse the rejection.

Norrgard teaches a method for providing topology awareness information within an IP network. The method includes a central node and a plurality of routers, wherein the probe is implemented in a router within the IP network and the probe belongs to a topology awareness system. (See Norrgard, Abstract.)

The Examiner's attention is directed to the fact that Norrgard fails to teach or to suggest the novel concept of a method for instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client and sending a redirect message to the client in response to receiving the results of the bandwidth probe or a method for instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth and selecting an identified server in response to receiving the bandwidth indication from each of the plurality of servers, as positively claimed by Applicants' independent claims 1, 16 and 21. Specifically, Applicants' independent claims 1, 16 and 21 recite:

> 1. A method of communicating comprising the steps of:
> receiving a communication from a client;
> instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client;
> receiving results of the bandwidth probe in response to instructing the at least one server; and
> sending a redirect message to the client in response to receiving the results of the bandwidth probe. (Emphasis added.)

16. A method of accessing a server comprising the steps of:
receiving an access request from a client;
instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth;
receiving a bandwidth indication from each of the plurality of servers;
selecting an identified server in response to receiving the bandwidth indication from each of the plurality of servers; and
redirecting the client to the identified server. (Emphasis added.)

21. A computer-readable medium having stored thereon a plurality of instructions, the plurality of instructions including instructions which, when executed by a processor, cause the processor to perform the steps of a method of communicating comprising the steps of:
receiving a communication from a client;
instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client;
receiving results of the bandwidth probe in response to instructing the at least one server; and
sending a redirect message to the client in response to receiving the results of the bandwidth probe. (Emphasis added.)

In one embodiment, the Applicants' invention teaches a method and a computer-readable medium having stored thereon a plurality of instructions, the plurality of instructions including instructions which, when executed by a processor, cause the processor to perform the steps of a method of communicating comprising instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client and sending a redirect message to the client in response to receiving the results of the bandwidth probe. In another embodiment, the Applicants' invention teaches a method of accessing a server comprising instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth and selecting an identified server in response to receiving the bandwidth indication from each of the plurality of servers. For example, the bandwidth probe may measure bandwidth performance measures such as throughput, delay and packet loss to determine which server a client should be directed to. (See e.g., Applicants' specification, p. 9, para. [0027].)

Norrgard fails to anticipate the Applicants' invention because Norrgard fails to teach or to suggest a method or a computer-readable medium for instructing at least

one server to begin a bandwidth probe in response to receiving the communication from the client and sending a redirect message to the client in response to receiving the results of the bandwidth probe or a method for instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth and selecting an identified server in response to receiving the bandwidth indication from each of the plurality of servers. In contrast, Norrgard only teaches a method involving a central node and a plurality of routers. (See Norrgard, para. [0088].) Furthermore, Norrgard only teaches that a probe in one of the routers provides topology information and not bandwidth information, as taught by the Applicants' invention. (See Norrgard, para. [0096].) Notably, topology information is not the same as bandwidth information. In addition, unlike the Applicants' invention that teaches sending a redirect message to the client in response to receiving the results of the bandwidth probe, Norrgard teaches that a redirect message is used in response to an initial registration message. (See Norrgard, para. [0108].) Therefore, Norrgard clearly fails to anticipate the Applicants' independent claims 1, 16 and 21.

Moreover, dependent claims 2-8, 17-20 and 22-27 depend from independent claims 1, 16 and 21, respectively, and recite additional limitations. As such, and for the exact same reason set forth above, the Applicants submit that claims 2-8, 17-20 and 22-27 are also patentable and not anticipated by Norrgard. As such, the Applicants respectfully request the rejection be withdrawn.

B. *Watson, et al.*

The Examiner rejected claims 1-8 and 16-27 as being anticipated by US Patent Publication 2004/0049574, published on March 11, 2004, hereinafter referred to as "Watson." The Applicants respectfully traverse the rejection.

Watson teaches a web server. The web server responds to a request message from a remote user device by dynamically generating web pages capable of being interpreted by the user device. (See Watson, Abstract.)

The Examiner's attention is directed to the fact that Watson fails to teach or to suggest the novel concept of a method for instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client or a

method for instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth, as positively claimed by Applicants' independent claims 1, 16 and 21. Specifically, Applicants' independent claims 1, 16 and 21 recite:

> 1. A method of communicating comprising the steps of:
> receiving a communication from a client;
> instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client;
> receiving results of the bandwidth probe in response to instructing the at least one server; and
> sending a redirect message to the client in response to receiving the results of the bandwidth probe. (Emphasis added.)
>
> 16. A method of accessing a server comprising the steps of:
> receiving an access request from a client;
> instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth;
> receiving a bandwidth indication from each of the plurality of servers;
> selecting an identified server in response to receiving the bandwidth indication from each of the plurality of servers; and
> redirecting the client to the identified server. (Emphasis added.)
>
> 21. A computer-readable medium having stored thereon a plurality of instructions, the plurality of instructions including instructions which, when executed by a processor, cause the processor to perform the steps of a method of communicating comprising the steps of:
> receiving a communication from a client;
> instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client;
> receiving results of the bandwidth probe in response to instructing the at least one server; and
> sending a redirect message to the client in response to receiving the results of the bandwidth probe. (Emphasis added.)

In one embodiment, the Applicants' invention teaches a method and a computer-readable medium for instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client. In another embodiment, the Applicants' invention teaches a method for instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth

method determining available bandwidth. For example, the bandwidth probe may measure bandwidth performance measures such as throughput, delay and packet loss to determine which server a client should be directed to. (See e.g., Applicants' specification, p. 9, para. [0027].)

Watson fails to anticipate the Applicants' invention because Watson fails to teach or to suggest a method or a computer-readable medium for instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client or a method for instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth. In contrast, Watson only teaches a method of creating web pages that may be interpreted by a user device based on information extracted from a request message. (See Watson, Abstract.) Nowhere does Watson teach or suggest the limitations of instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client or instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth. The Examiner alleges this limitation is taught by generally referring to FIG. 1 of Watson. The Applicants respectfully submit that FIG. 1 of Watson simply shows a schematic overview of connections between a web server and remote user devices. Therefore, Watson clearly fails to anticipate the Applicants' independent claims 1, 16 and 21.

Moreover, dependent claims 2-8, 17-20 and 22-27 depend from independent claims 1, 16 and 21, respectively, and recite additional limitations. As such, and for the exact same reason set forth above, the Applicants submit that claims 2-8, 17-20 and 22-27 are also patentable and not anticipated by Watson. As such, the Applicants respectfully request the rejection be withdrawn.

C. *Colby, et al.*

The Examiner rejected claims 1-8 and 16-27 as being anticipated by US Patent 6,449,647, issued on September 10, 2002, hereinafter referred to as "Colby." The Applicants respectfully traverse the rejection.

Colby teaches content-aware switching of network packets. A content-aware flow switch intercepts a client content request in an IP network, and transparently directs the content request to a best fit server. (See Colby, Abstract.) The best fit server is chosen based on the type of content request, the quality of service requirements implied by the content request, the degree of load on available servers, network congestion information, and the proximity of the client to available servers. (See *Id.*)

The Examiner's attention is directed to the fact that Colby fails to teach or to suggest the novel concept of a method and a computer-readable medium for instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client and sending a redirect message to the client in response to receiving the results of the bandwidth probe or a method for instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth and selecting an identified server in response to receiving the bandwidth indication from each of the plurality of servers, as positively claimed by Applicants' independent claims 1, 16 and 21. Specifically, Applicants' independent claims 1, 16 and 21 recite:

> 1. A method of communicating comprising the steps of:
> receiving a communication from a client;
> instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client;
> receiving results of the bandwidth probe in response to instructing the at least one server; and
> sending a redirect message to the client in response to receiving the results of the bandwidth probe. (Emphasis added.)
>
> 16. A method of accessing a server comprising the steps of:
> receiving an access request from a client;
> instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth;
> receiving a bandwidth indication from each of the plurality of servers;
> selecting an identified server in response to receiving the bandwidth indication from each of the plurality of servers; and
> redirecting the client to the identified server. (Emphasis added.)

21. A computer-readable medium having stored thereon a plurality of instructions, the plurality of instructions including instructions which, when executed by a processor, cause the processor to perform the steps of a method of communicating comprising the steps of:

receiving a communication from a client;

instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client;

receiving results of the bandwidth probe in response to instructing the at least one server; and

sending a redirect message to the client in response to receiving the results of the bandwidth probe. (Emphasis added.)

In one embodiment, the Applicants' invention teaches a method and a computer-readable medium for instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client and sending a redirect message to the client in response to receiving the results of the bandwidth probe. In another embodiment, the Applicants' invention teaches a method for instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth and selecting an identified server in response to receiving the bandwidth indication from each of the plurality of servers. For example, the bandwidth probe may measure bandwidth performance measures such as throughput, delay and packet loss to determine which server a client should be directed to. (See e.g., Applicants' specification, p. 9, para. [0027].)

Colby fails to anticipate the Applicants' invention because Colby fails to teach or to suggest a method or a computer-readable medium for instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client and sending a redirect message to the client in response to receiving the results of the bandwidth probe or a method of accessing a server comprising instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth and selecting an identified server in response to receiving the bandwidth indication from each of the plurality of servers. In contrast, Colby teaches that a server is selected by a flow switch based on information derived from the content request. (See Colby, Abstract.) Colby discusses minimum bandwidth requirements based upon the type of content that is

requested, but does not teach or suggest how the available bandwidth is calculated. (See col. 9, ll. 29-65; Table 1.) More specifically, Colby clearly does not teach or suggest that the server performs the bandwidth probe, as positively taught by the Applicants' invention. Therefore, Colby clearly fails to anticipate the Applicants' independent claims 1, 16 and 21.

Moreover, dependent claims 2-8, 17-20 and 22-27 depend from independent claims 1, 16 and 21, respectively, and recite additional limitations. As such, and for the exact same reason set forth above, the Applicants submit that claims 2-8, 17-20 and 22-27 are also patentable and not anticipated by Colby. As such, the Applicants respectfully request the rejection be withdrawn.

D. *Kloninger, et al,*

The Examiner rejected claims 1-8 and 16-27 as being anticipated by WO Patent Publication 03/098464 A1, published on November 27, 2003, hereinafter referred to as "Kloninger." The Applicants respectfully traverse the rejection.

Kloninger teaches an enterprise content delivery network having a central controller for coordinating a set of content servers. The central controller coordinates the set of distributed servers into a unified system by providing provisioning, content control, request mapping, monitoring and reporting. (See Kloninger, Abstract.)

The Examiner's attention is directed to the fact that Kloninger fails to teach or to suggest the novel concept of a method and a computer-readable medium for instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client and sending a redirect message to the client in response to receiving the results of the bandwidth probe or a method for instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth and selecting an identified server in response to receiving the bandwidth indication from each of the plurality of servers, as positively claimed by Applicants' independent claims 1, 16 and 21. Specifically, Applicants' independent claims 1, 16 and 21 recite:

1. A method of communicating comprising the steps of:
receiving a communication from a client;
instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client;
receiving results of the bandwidth probe in response to instructing the at least one server; and
sending a redirect message to the client in response to receiving the results of the bandwidth probe. (Emphasis added.)

16. A method of accessing a server comprising the steps of:
receiving an access request from a client;
instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth;
receiving a bandwidth indication from each of the plurality of servers;
selecting an identified server in response to receiving the bandwidth indication from each of the plurality of servers; and
redirecting the client to the identified server. (Emphasis added.)

21. A computer-readable medium having stored thereon a plurality of instructions, the plurality of instructions including instructions which, when executed by a processor, cause the processor to perform the steps of a method of communicating comprising the steps of:
receiving a communication from a client;
instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client;
receiving results of the bandwidth probe in response to instructing the at least one server; and
sending a redirect message to the client in response to receiving the results of the bandwidth probe. (Emphasis added.)

In one embodiment, the Applicants' invention teaches a method and a computer-readable medium for instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client and sending a redirect message to the client in response to receiving the results of the bandwidth probe. In another embodiment, the Applicants' invention teaches a method for instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth and selecting an identified server in response to receiving the bandwidth indication from each of the plurality of servers. For example, the bandwidth probe may measure bandwidth performance measures such as throughput, delay and packet loss to determine which

server a client should be directed to. (See e.g., Applicants' specification, p. 9, para. [0027].)

Kloninger fails to anticipate the Applicants' invention because Kloninger fails to teach or to suggest a method or a computer-readable medium for instructing at least one server to begin a bandwidth probe in response to receiving the communication from the client and sending a redirect message to the client in response to receiving the results of the bandwidth probe or a method for instructing a plurality of servers to each operate a bandwidth method in response to receiving the access request, the bandwidth method determining available bandwidth and selecting an identified server in response to receiving the bandwidth indication from each of the plurality of servers. In contrast, Kloninger teaches an enterprise content delivery network having a central controller for coordinating a set of content servers. (See Kloninger, Abstract.) Notably, Kloninger teaches that the central controller performs monitoring of the network via a SNMP module. (See Kloninger, p. 6, ll. 20-25; p. 8, ll. 1-20; Abstract.) Notably, Kloninger does not teach or suggest that any of the servers perform a bandwidth probe in response to receiving the communication from the client, as taught by the Applicants' invention. Therefore, Kloninger clearly fails to anticipate the Applicants' independent claims 1, 16 and 21.

Moreover, dependent claims 2-8, 17-20 and 22-27 depend from independent claims 1, 16 and 21, respectively, and recite additional limitations. As such, and for the exact same reason set forth above, the Applicants submit that claims 2-8, 17-20 and 22-27 are also patentable and not anticipated by Kloninger. As such, the Applicants respectfully request the rejection be withdrawn.

Conclusion

Thus, the Applicants submit that all of these claims now fully satisfy the requirements for patentability. Consequently, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring the issuance of a final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Kin-Wah Tong, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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